

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

SCHAARON MARTIN,

Case No. 14-CV-4462 (PJS/SER)

Plaintiff,

v.

REPORT AND RECOMMENDATION

MINNEAPOLIS SCHOOL DIST. #1;
STATE OF MINNESOTA; CITY OF
MINNEAPOLIS; and MDE,

Defendants.

Plaintiff Schaaron Martin filed a complaint seeking relief under 42 U.S.C. § 1983. *See* ECF No. 1. She did not pay the required filing fee for this case. Instead, Martin sought leave to proceed *in forma pauperis* (“IFP”). *See* ECF No. 2. In an order dated November 4, 2014, this Court noted that Martin’s complaint suffered from several infirmities, and it ordered Martin to file an amended complaint that stated a viable claim on which relief can be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(ii). Martin was given until November 21, 2014 to file the amended complaint.

That deadline has now passed, and Martin has not filed an amended complaint. Indeed, Martin has not communicated with the Court since the Court’s November 4 order. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, IT IS
HEREBY RECOMMENDED THAT:

1. This action be DISMISSED WITHOUT PREJUDICE under Fed. R. Civ. P. 41(b) for failure to prosecute.
2. Plaintiff Schaaron Martin's application to proceed *in forma pauperis* [ECF No. 2] be DENIED AS MOOT.
3. Martin's motion to hear the case as an emergency [ECF No. 3] be DENIED AS MOOT.

Dated: December 8, 2014

s/Steven E Rau
Steven E. Rau
U.S. Magistrate Judge

NOTICE

Pursuant to Local Rule 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **December 22, 2014**, a writing that specifically identifies the portions of the Report to which objections are made and the bases for each objection. A party may respond to the objections within fourteen days of service thereof. Written submissions by any party shall comply with the applicable word limitations provided for in the Local Rules. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment from the District Court, and it is therefore not directly appealable to the Eighth Circuit Court of Appeals.